IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Crl.MC.No. 1121 of 2007(A)

(C.C. NO. 626/2003 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ATTINGAL)

PETITIONER: 6TH ACCUSED

NAHASKHAN, S/O.ABDUL KHARIM,
RESIDING AT SHAJEEMA MANZIL, AVANAVANCHERRI,
EDAKKODE DESOM, EDAKKODE VILLAGE,
CHIRAYINKEEZHU TALUK.

BY ADV. SRI.J.JAYAKUMAR

RESPONDENTS: STATE & DEFACTO COMPLAINANT
---

1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. ZEENATH NISA, D/O.SHIHABUDHEEN,
SAAJITHA MANZIL, ALANKODE VILLAGE,
CHIRAYINKEEZHU TALUK.

BY ADV. SRI. M.S. BREEZE, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1121 of 2007

Dated this the 19th day of June, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 498 A I.P.C. The co-accused have already been acquitted. The petitioner is the 6th accused. He is a brother of the husband of the 2nd respondent/defacto complainant. The 2nd respondent filed a private complaint. It was referred to the police under Section 156(3) Cr.P.C. Final report was filed and cognizance was taken. As the petitioner was not available, case against him was split up. The co-accused faced trial. They have been found not guilty and acquitted. The petitioner has now come before this Court with this petition to apprise the Court of the fact that the defacto complainant/2nd respondent has compounded the offence and parties have settled all their outstanding disputes. The continuance of this prosecution is unnecessary and in these circumstances it is prayed that powers under Section 482 Cr.P.C may be invoked to quash the proceedings.

2. The 2nd respondent has entered appearance through counsel. The learned counsel for the 2nd respondent asserts that the matter has been settled between the parties. An affidavit has been filed by the 2nd respondent, in which she confirms that the matter has been settled between the parties and offence is compounded. I am

satisfied from all these inputs that there has been a genuine and voluntary settlement and composition of the offence by the 2nd respondent. If legally permissible, I am satisfied, that the composition can be accepted and further proceedings brought to termination.

3. But the offence under Section 498 A I.P.C is not compoundable. The counsel in these circumstances rightly rely on the decision in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386]. That decision is authority for the proposition that notwithstanding the fact that the offence is not compoundable, in the interests of justice powers under Section 482 Cr.P.C can be invoked and proceedings brought to premature termination. I am satisfied that this is an eminently fit case where the dictum in **B.S.Joshy v. State of Haryana** can be applied and proceedings brought to premature termination.

4. In the result, this Crl.M.C is, allowed. C.C.No.626 of 2003 before the Judicial Magistrate of the First Class-I, Attingal against the petitioner/6th accused is hereby quashed.

(R.BASANT, JUDGE)

rtr/-